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Committee on Railway Mail Pay

An analysis of the Moon bill

New York?

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An Analysis of the Moon Bill

Why It Does Not Offer a Just or Practicable Basis of Payment to the Railroads for Carrying the Mails

THE measure commonly known as the "Moon bill," devised to change the method of paying for mail transportation on railroads, was made a rider on the Post Office appropriation bill in the last Congress, but failed to pass. The Postmaster General has announced that it will be reintroduced when the new Congress assembles in December.

The railroad managers of the country, earnestly believing the Moon bill to be an unjust and improper measure, wish to lay before Congress and the public their reasons for this conviction. Three leading reasons are:

1. The Moon bill is substantially a delegation to the Postmaster General of legislative control over railway mail pay.

2. It would vest the Postmaster General with arbitrary personal powers beyond the proper scope of his office.

3. It would tend to make Railway Mail Pay a political instrument by making the rates and conditions of service on all railroads discretionary with successive postal administrations, thus permitting wide discrimination between different companies and sections of the country.

Issued October 28, 1915, by the COMMITTEE ON RAILWAY MAIL PAY, 75 Church St., New York City. Ralph Peters, President of the Long Island Railroad Company, Chairman; W. F. Allen, Secretary.

How the Moon Bill Would Affect the Railroads

The Moon bill would confer upon the Postmaster General, who is of necessity interested in the reduction of the postal deficit, very broad authority to determine what pay the railroads shall be allowed for carrying the mails, and for all other services required by his Department.

Coupled with this grant of the rate-making power would be a penal provision of great severity under which any railroad would be fined $5000 per day for refusing to perform any service the Postmaster General might demand for whatever he might elect to pay. The bill contains no provision by which an appeal might be taken from any specific order or decision so made.

The Moon bill would forbid the Postmaster General to pay the railroads *more* than certain designated rates for the various services. These rates would be inadequate, even if allowed in full, because they would limit the earnings from mail transportation to a smaller return than is derived from the carriage of passengers, which the Interstate Commerce Commission has decided to be an unremunerative service.

The bill would place no restraint of any kind, save personal discretion, upon the extent to which the Postmaster General might reduce the compensation of the railroads, in the exercise of the rate-making power which would be delegated to him.

Certain passages in the Moon bill would specifically require the railroads, upon demand of the Postmaster General, to furnish his Department many valuable special facilities *without any additional compensation whatever.*

* * * *

An Unfair Basis of Pay

The Moon bill would introduce other confiscatory principles by setting up the so-called "space plan" of pay, under which the facilities of the railroads would be virtually commandeered. The railroads would be compelled, by this plan, to accept flat mileage rates for mail cars and apartments, regardless of the load carried.

The *highest* rates permitted by the bill—which the Postmaster General could further reduce at his discretion—would be inadequate even for the transportation of very light loads. Yet the Post Office Department would claim the right to load the car space to its full capacity, thereby making it possible to obtain the transportation of a very large additional mail tonnage without payment for the additional service rendered.

* * * *

A Significant Feature

This feature of the Moon bill is of great importance and significance in view of the entrance of the Post Office Department into the field of commercial transportation, in competition with the freight and express services, through the medium of the heavyweight parcel post.

From the viewpoint of the public, also, the "space plan" of pay would appear undesirable as tending to result in deterioration of the railway mail service. If the system were to be administered with the object of economy, the tendency would be to hold back the mails until they could be concentrated into heavy loads, thus delaying their transmission. Under the present system of payment by ***weight***, the Post Office Department can utilize every train that runs, without additional expense, and so give the public the maximum frequency of dispatch.

* * * *

What the Moon Bill Is and Is Not

The Moon bill, on its face, purports in elaborate detail to specify two things:

1. The way in which the mails are to be transported.

2. The rates to be paid the railroads for the service.

Analysis of the bill, however, will show that it really leaves these matters almost wholly to the personal discretion of the Postmaster General, and that by the passage of the measure the only definite provisions that Congress would actually enact into law would be:

First—That the Postmaster General must not pay the railroads more than certain rates.

Second—That the railroads must carry the mails at the rates the Postmaster General names.

Nowhere does the Moon bill specify that the Postmaster General shall pay the railroads anything. What it does do is to provide that he may pay them "not exceeding" certain designated rates for the various services demanded.

* * * *

Delegations of Basic Authority

The Moon bill contains no less than ten specific authorizations to the Postmaster General to vary, at will, the rates named in the measure as applicable to the various railroad services.

It contains four specific authorizations under which he would be at liberty to devise and put into effect systems of mail transportation, and plans of compensation for the service, totally different from the system and plan which the major portion of the bill purports to enact into law.

Should the authority conferred upon the Postmaster General by these supplementary grants of power be fully exercised, only the first-class mail, which is less than 10 per cent. of the whole, would be transported in accordance with the plan set forth in detail by the Moon bill. All other mail, including the parcel post, would be carried under plans of transportation, and of payment for the same, initiated and put into effect by the Postmaster General, independently of the will of Congress.

* * * *

A Departmental Measure

In connection with these vast grants of arbitrary power which the Moon bill would confer upon the head of the Post Office Department, it is of great

significance that the measure originated in, and is the proposal of, the Department.

This was revealed by the Chairman of the House of Representatives Post Office Committee, who acted as the sponsor of the bill in Congress. In his speech of August 6, 1914, when asking for support of the bill, Chairman Moon said:

> **"This particular section [the railway mail pay measure] is the suggestion of the Post Office Department. It is peculiarly their section to this bill."**
>
> (*Cong. Rec., August 6, 1914, p. 14561.*)

* * * *

No Protection for the Railroads

Nowhere does the Moon bill specify that the rates allowed the railroads by the Postmaster General shall be compensatory, or fair, or just, or even reasonable.

Under the terms of such a measure, it would obviously be impossible for the management of any railroad to estimate, even roughly, what revenue it might count upon receiving from the service of transporting the mails.

The bill contains no provision that equal rates shall be paid the railroads for equal services. In view of the tremendous powers which it would confer upon the Postmaster General, in determining the rates and conditions of service, and of the absence of all provision for appeal from any specific exercise of such powers, the possibilities of discrimination, for political or other reasons, are obvious.

It would be possible to pay different railroads dissimilar rates for similar services, or to make the

conditions of service imposed upon various companies very unequal. Discrimination might easily be upon sectional lines.

What the railroads should be paid for carrying the mails is purely a business question and ought to be kept out of politics. The Moon bill would be a most effective means of putting it into politics.

* * * *

For the information of Congress and of the public at large, the complete text of the Moon bill, or rider, is analyzed in the following pages.

The Moon Bill or Railway Mail Pay Rider

In its final form as Section 10 of the Post Office appropriation bill for 1915-16

Reprinted with explanatory comments

(The text of the Moon bill, or rider, is taken from the Congressional Record for March 15, 1915, page 6581. For purposes of reference the paragraphs are numbered and certain passages underscored.)

Moon Bill Text,

(1) **SEC. 10. That the Postmaster General is authorized and directed to readjust the compensation to be paid to railroad companies from and after the 30th day of June, 1915, or as soon thereafter as may be practicable, for the transportation and handling of the mails and furnishing facilities and services in connection therewith upon the conditions and at the rates hereinafter provided.**

Comment:

The Moon bill, from end to end, does not specify a single definite rate which the railroads are to be paid, but, on the contrary, in each instance delegates the power of fixing the rates to the Postmaster General. See the comments following paragraphs 7, 9, 10, 11, 12, 13, 14, 16 and 19.

The Moon bill does, in its main body, minutely specify many *conditions* of service, but the supplementary grants of power under paragraphs 32, 35, 36 and 37 would permit the Postmaster General, at his own volition, to annul these provisions completely as to the transportation of more than 90 per cent. of the mail. Paragraphs 17, 19, 24 and 26 also specifically authorize the Postmaster General to determine and alter the conditions of service in most vital respects.

Moon Bill Text,
Continued

(2) The Postmaster General may state railroad mail routes and authorize mail service thereon of the following four classes, namely: Full railway post office car service, apartment railway post office car service, storage-car service, and closed-pouch service.

Comment:

Under the terms of paragraphs 32, 35, 36 and 37 the Postmaster General would be at liberty to disregard these classifications of service herein purporting to be established by Congress, and substitute other classifications and plans of transportation devised and initiated by himself, independently of Congress.

Moon Bill Text,
Continued

(3) Full railway post office car mail service shall be service by cars 40 feet or more in length, constructed, fitted up, and maintained for the distribution of mails on trains. The authorizations of full railway post office cars shall be for standard-sized cars 60 feet in length, inside measurement, except as hereinafter provided.

(4) Apartment railway post office car mail service shall be service by apartments less than 40 feet in length in cars constructed, fitted up, and maintained for the distribution of mails on trains. Two standard sizes of apartment railway post office cars may be authorized and paid for, namely, apartments 15 feet and 30 feet in length, inside measurement, except as hereinafter provided.

(5) Storage car mail service shall be service by cars used for the storage and carriage of mails in transit other than by full and apartment railway post office cars. The authorizations for storage cars shall be for cars 60 feet in length, inside measurement, except as hereinafter provided: Provided, That less than 60 feet of storage space may be authorized in baggage cars.

(6) Service by full and apartment railway post office cars and storage cars shall include the carriage therein of all mail matter, equipment, and supplies for the mail service and the employes of the Postal Service or Post Office Department as shall be directed by the Postmaster General to be so carried.

Comment:

Paragraph 6, taken in connection with the "space plan" of pay, would apparently authorize the Postmaster General to demand transportation, without payment of fare, for any employe of his Department traveling for any purpose whatever. Compare the provisions of paragraph 27 and the comments thereon as to the impropriety and inconsistency of demanding free transportation for postal officers or employes not actually in charge of the mails in transit.

Moon Bill Text,
Continued

(7) Closed-pouch mail service shall be the transportation and handling by railroad employes of mails on trains on which full or apartment railway post office cars are not authorized, except as hereinbefore provided.

Comment:

The bill, up to this point, purports to establish the physical character of the mail service to be performed by railroads. But the provisions of paragraphs 32, 35, 36 and 37 would allow the Postmaster General to devise entirely different plans for all but first-class mail, or less than 10 per cent. of the whole.

* * * *

The paragraphs, Nos. 8 to 14, which follow, purport to establish a system of rates to be paid the railroads for the mail-carrying service. In reality, however, the use of the words "not exceeding" in connection with every specified rate would place the power of actually fixing the rates in the hands of the Postmaster General, with the sole limitation that he must not pay *more* than certain sums. He could pay *as much less* as he might choose. He could alter the rates at will and could pay different companies different rates for identical services.

Moon Bill Text,
Continued

(8) The rates of payment for the services authorized in accordance with this Act shall be as follows, namely:

(9) For full railway post office car mail service at not exceeding 21 cents for each mile of service by a 60-foot car.

Comment:

This paragraph contains the first of the ten specific authorizations to the Postmaster General to vary the rates. Under its terms he could allow a given railroad anything between 21 cents and nothing per mile for the hauling of a 60-foot railway post office car, with its contents, equipment and accompanying clerks.

The 21-cent rate would be unjustly low, even if allowed in full, because it would be 5¼ cents, or 21 per cent., less per car-mile than the average gross return from passenger transportation, which the Interstate Commerce Commission has declared to be unremunerative. The mails are carried in passenger trains or in special mail trains run on passenger schedules. The mail service is in many respects more burdensome to perform than passenger transportation and in justice should certainly not be limited to a materially lower gross return.

Moon Bill Text,
Continued

(10) In addition thereto he may allow not exceeding $2 as an initial rate and the same as a terminal rate for each one-way trip of a 60-foot car.

Comment:

This paragraph, by making the initial and terminal rates for railway post office cars optional with the Postmaster General, embodies the second specific authorization under which he could vary the rates.

Moon Bill Text,
Continued

(11) For apartment railway post office car mail service at not exceeding 11 cents for each mile of service by a 30-foot apartment car and 6 cents for each mile of service by a 15-foot apartment car.

Comment:

This paragraph contains the third specific authorization to the Postmaster General to determine rates.

The rates named, like those for the full 60-foot cars, would be inadequate even though allowed in full, and for the same reason. See comment on paragraph 9.

Moon Bill Text,
Continued

(12) In addition thereto he may allow not exceeding $1 as an initial rate and the same as a terminal rate for each one-way trip of a 30-foot apartment car and 50 cents as an initial rate and the same as a terminal rate for each one-way trip of a 15-foot apartment car.

Comment:

The fourth authorization under which the Postmaster General would be empowered to vary the rates is embodied in this paragraph.

Moon Bill Text,
Continued

(13) For storage-car mail service at not exceeding 20 cents for each mile of service by a 60-foot car.

Comment:

This is the fifth specific authorization to vary the rates. See also the comment on paragraph 9, as to the inadequacy of the 20-cent rate, even if allowed in full.

Moon Bill Text,
Continued

(14) In addition thereto he may allow not exceeding $2 as an initial rate and the same as a terminal rate for each one-way trip of a 60-foot car.

Comment:

The sixth authorization to vary rates is contained in this paragraph.

* * * *

The bill, thus far, outlines what is known as the "space plan" of transporting the mails and paying the railroads for the service. Its chief feature is that instead of basing the compensation to the railroads upon the amount, or weight, of mail carried

and the distance it is hauled—the true measure of the service rendered—it would base the rates upon the amount of car space *authorized* by the Post Office Department in specially designated trains, and to be paid for on a flat mileage basis, irrespective of the mail tonnage actually carried.

The defects of the "space plan" are:

First, That the payment of inadequate car-mile rates for car space (which the Post Office Department would claim the right to use to full capacity) would deprive the railroads of compensation for transportation service actually rendered, the obvious purpose being to permit a large increase in the mail tonnage, through the parcel post and otherwise, without increasing the payments to the railroads. Indeed, their compensation could actually be reduced while the mail tonnage was increasing.

That the latter process would be unjust was the conclusion of the Joint Congressional Committee on Railway Mail Pay, which, in its report, observed, "No reasonable man can expect that the Government can increase its postal revenues at an average rate of $13,000,000 per year without increasing its expenses in practically all departments of the service, though perhaps at a smaller ratio."

Second, That the Post Office Department would be limited to the authorized space, on the designated trains. This would reduce the frequency of service and impair its quality, since, under the present system of payment for the weight of mail and the distance of transportation, *the Department can freely use every train that runs, and at no additional expense*—obviously the most advantageous condition for the public.

* * * *

Mail, as far as the railroads are concerned, is freight of the very highest grade. Rates for the transportation of all other freight are based on the weight carried and the distance of the haul. The Government, itself, charges postage in accordance with weight and, in the case of the parcel post, in accordance with distance also. No just reason has ever been assigned why the Post Office Department should decline to pay the railroads on the same basis.

Moon Bill Text,
Continued

(15) Where authorizations are made for cars of the standard lengths of 60, 30, and 15 feet, as provided by this Act, and the railroad company is unable to furnish such cars of the length authorized, but furnishes cars of lesser length than those authorized, but which are determined by the department to be sufficient for the service, the Postmaster General may accept the same and pay only for the actual space furnished and used, the compensation to be not exceeding pro rata of that provided by this Act for the standard length so authorized: Provided, That the Postmaster General may accept cars and apartments of greater length than those of the standard requested, but no compensation shall be allowed for such excess lengths.

(16) For closed-pouch service, on routes upon which closed-pouch service only is performed, at not exceeding the rates of compensation, provided by existing law for average daily weights of mail carried over the whole route; on routes upon which apartment railway post office car and closed-pouch services are performed, at not exceeding $20 per mile per annum for each 2000 pounds average daily weight of mails carried, and at pro rata of such rate of compensation for each 100 pounds of average daily weight greater or less than 2000 pounds; and on routes upon which full railway post office car and closed-pouch services or full railway post office car, apartment car, and closed-pouch services are performed, at not exceeding $19 per mile per annum for each 2000 pounds average daily weight of mails carried, and at pro rata of such rate of compensation for each 100 pounds of average daily weight greater or less than 2000 pounds, the average daily weights to be ascertained in every case by the actual weighing of the mails.

Comment:

Paragraph 16 would continue the weight-and-distance system of payment for the mail carried in closed pouches, in baggage cars; but this, however, is only about 2 per cent. of the total mail.

The paragraph, moreover, as indicated by the underscoring, allows the Postmaster General to fix the rates, within

maximum limitations, and contains the seventh, eighth and ninth of the 10 specific delegations of such authority.

Moreover, even the highest rates the Postmaster General would be authorized, under this paragraph, to pay for the closed pouch service on routes where mail cars or apartments are also operated, would be unjustly low, as they are wholesale rates, but would be applicable to a distinctly retail form of service. The highest rate mentioned is $20 per mile per year for the transportation of an average weight of one ton daily. At this rate, which the Postmaster General could further reduce if he chose, a railroad would have to carry, for example, two mail bags, weighing together 100 pounds, a distance of 50 miles to earn 13 cents. *The railroad would earn more than twice that sum from 100 pounds of express traffic carried an equal distance at the rates revised and directed by the Interstate Commerce Commission.* On weights less than 100 pounds the disproportion in favor of the express traffic would be still greater.

Moon Bill Text,
Continued

(17) **The Postmaster General may require railroad companies carrying the mails to deliver them into and take them from the terminal and intermediate post offices and transfer them between railroad stations on their routes without additional compensation, under such regulations as he may deem proper, in cases where he does not provide for such service otherwise: Provided, That the Postmaster General in his discretion may relieve any of the roads of such service.**

Comment:

This paragraph would permit the unlimited extension, under the direct sanction of law, of a practice which the railroads have long protested as unjust. At present, the railroads are required, without compensation other than that covering the rail haul, to carry the mails between railroad stations and post offices and from one railroad station to another, where the distance does not exceed one quarter of a mile, also between terminals of mail routes and the post offices, regardless of

distance. The Joint Congressional Committee on Railway Mail Pay declared this practice unfair and reported that "conveyance of mail on city streets is no proper part of railroad duty." Yet this paragraph of the Moon bill would permit the Postmaster General to exact as much more service of this kind as he might desire from the railroads and "*without additional compensation.*"

Moon Bill Text,
Continued

(18) **Railroad companies whose railroads were constructed in whole or in part by a land grant made by Congress, on the condition that the mails should be transported over their roads at such price as Congress should by law direct, shall receive only 80 per cent. of the compensation otherwise authorized by this Act.**

(19) **The initial and terminal rates provided for herein shall cover expenses of loading and unloading mails, switching, lighting, heating, cleaning mail cars, and all other expenses incidental to station service and required by the Postmaster General in connection with the mails that are not included in the car-mile rate. The allowance for full railway post office cars, apartment railway post office cars, and storage cars may be varied in accordance with the approximate difference in their respective cost of construction and maintenance.**

Comment:

The meaning of the underscored portion of paragraph 19 is vague, but might be interpreted as a species of general license to the Postmaster General to exact various additional station facilities from the railroads, at the terminals of mail routes, *without additional payment for the same.*

This paragraph also, in its last sentence, contains the tenth specific authorization to the Postmaster General to vary rates.

Moon Bill Text,
Continued

(20) **For the purpose of ascertaining the average weight of closed-pouch mails per day upon which to adjust compensation, the Postmaster General is authorized and directed to**

have such mails carried on the several routes weighed by the employes of the Post Office Department for such a number of successive days, not less than 35, at such times after the passage of this Act, as he may direct, and not less frequently than once in every year thereafter, the result to be stated and certified in such form and manner as he may direct. In computing the average weight of mails per day carried on a railroad route, the whole number of days included in the weighing period shall be used as a divisor. The expense of taking the weights of mails and the compensation to tabulators and clerks employed in connection with the weighings, for assistance in completing computations, and of rentals, if necessary, in Washington, D. C., shall be paid out of the appropriation for inland transportation by railroad routes.

Comment:

This paragraph, in its first sentence, gives important recognition to the justice of the railroads' contention that fairness and the ordinary principles of business practice would require the mails to be weighed *at least once a year, instead of once in four years*, as at present, for the purpose of determining the average daily weights for which the railroads are to be paid. The other portions of the bill, however, eliminate weight as a factor in fixing the rates save for the closed-pouch mail, or only about 2 per cent. of the whole.

Moon Bill Text,
Continued

(21) In computing the car miles of the full railway post office cars and apartment railway post office cars, the maximum space authorized in either direction of a round-trip car run shall be regarded as the space to be computed in both directions, unless otherwise mutually agreed upon.

(22) In computing the car miles of storage cars, the maximum space authorized in either direction of a round-trip car run shall be regarded as the space to be computed in both directions, unless the car be used by the company in the return movement, or otherwise mutually agreed upon.

Comment:

The provisions of paragraphs 21 and 22, to the effect that authorized car space shall be paid for in both directions, concedes the operating necessity of the return trip of the car, not at present recognized in the practice of the Post Office Department, but the significance of the provision is practically nullified by the general delegations of power to the Postmaster General to make and alter the rates and conditions of service, and to require compulsory service.

Moon Bill Text,
Continued

(23) New service and additional service may be authorized at not exceeding the rates herein provided, and service may be reduced or discontinued with pro rata reductions in pay, as the needs of the Postal Service may require; Provided, That no additional pay shall be allowed for additional closed-pouch service on established routes until the next regular readjustment of pay therefor on such routes, and no additional pay shall be allowed for additional car service unless specifically authorized by the Postmaster General.

Comment:

The terms of this paragraph would permit the Postmaster General to discontinue, *without notice*, the use of and payment for mail cars or apartments specially constructed at his order and at a cost of many thousands of dollars. Such cars would be unsuited for other forms of railroad service without costly rebuilding.

In these cases the mail would continue to be carried on the train, but in the baggage car instead of in the mail car, and would not be paid for by the Post Office Department until after the next annual weighing and readjustment of rates.

Moon Bill Text,
Continued

(24) All cars or parts of cars used for the Railway Mail Service shall be of such construction, style, length, and character, and furnished in such manner as shall be re-

quired by the Postmaster General, and shall be constructed, fitted up, maintained, heated, lighted, and cleaned by and at the expense of the railroad companies. No pay shall be allowed for service by any railway post office car which is not sound in material and construction and which is not equipped with sanitary drinking water containers and toilet facilities, nor unless such car is regularly and thoroughly cleaned. No pay shall be allowed for service by any wooden full railway post office car unless constructed substantially in accordance with the most approved plans and specifications of the Post Office Department for such type of cars, nor for service by any wooden full railway post office car run in any train between adjoining steel cars, or between the engine and a steel car adjoining. After the 1st of July, 1917, the Postmaster General shall not approve or allow to be used, or pay for service by, any full railway post office car not constructed of steel or steel underframe or equally indestructible material, and not less than 25 per cent. of the full railway post office cars of a railway company not conforming to these provisions on August 24, 1912, shall be replaced with cars constructed of steel annually after June, 1913; and all full railway post office cars accepted for this service and contracted for by the railroad companies hereafter shall be constructed of steel. Until July 1, 1917, in cases of emergency and in cases where the necessities of the service require it, the Postmaster General may provide for service by full railway post office cars of other than steel or steel underframe construction, and fix therefor such rate of compensation within the maximum herein provided as shall give consideration to the inferior character of construction, and the railroad companies shall furnish service by such cars at such rates so fixed.

Comment:

Under the terms of this paragraph, any railroad, regardless of its financial resources, would be compelled to construct all mail cars, and all cars containing mail apartments, of any material or style, irrespective of cost, that the Postmaster General might specify, and to build and place in operation new ones upon demand. The mandatory feature of the bill (see paragraph 41) would leave the railroads no alternative but to comply, while under the provisions of paragraph 23 the Postmaster

General could, at any time and without notice, discontinue the use of and payment for such cars, leaving them on the hands of the railroad.

Respecting the provisions for the replacement of wooden with steel postal cars, it may be said that the railroads, in general, are adopting steel equipment as fast as their resources permit.

Moon Bill Text,
Continued

(25) Service over property owned or controlled by another company or a terminal company shall be considered service of the railroad company using such property and not that of the other or terminal company: Provided, That service over a land-grant road shall be paid for as herein provided.

(26) Railroad companies carrying the mails shall furnish all necessary facilities for caring for and handling them while in their custody. They shall furnish all cars or parts of cars used in the transportation and distribution of the mails, except as is herein otherwise provided, and place them in stations before the departure of trains at such times and when required to do so. They shall provide station space and rooms for handling, distribution, and transfer of mails in transit, and for offices and rooms for the employes of the Postal Service engaged in such transportation, when required by the Postmaster General.

Comment:

The practices of the Post Office Department already compel the railroads in many instances to place mail cars, or cars containing mail apartments, in terminals hours before the departure of trains, to be used by the postal clerks for the sorting of mail. The railroads are paid nothing for this utilization of extremely valuable terminal room, but the Department is relieved from the necessity of renting office space elsewhere. Paragraph 26 would give this practice the sanction of law.

The words, "*handling, distribution,*" in the last sentence, might require the railroads to furnish office space in terminals, rent free, for general post office purposes.

Moon Bill Text,
Continued

(27) Every railroad company carrying the mails shall carry on any train it operates and without extra charge therefor the persons in charge of the mails, and when on duty and traveling to and from duty, and all duly accredited agents and officers of the Post Office Department and the Postal Service, while traveling on official business, upon the exhibition of their credentials.

Comment:

No other Department of the Government has ever demanded for its officers or employes the right to free transportation upon railroad trains and, from the President down, all pay fare. To carry "the persons *in charge* of the mails" is naturally part of the service of mail transportation, but that should be the limit of the practice. No better reason exists why postal officers or postmasters who are not associated with the transportation of the mails should be carried free than exists for the free transportation of all the other half-million Federal officers and employes.

Moon Bill Text,
Continued

(28) If any railroad company carrying the mails shall fail or refuse to provide cars or apartments in cars for distribution purposes when required by the Postmaster General, or shall fail or refuse to construct, fit up, maintain, heat, light, and clean such cars and provide such appliances for use in case of accident as may be required by the Postmaster General, it shall be fined such reasonable sum as may, in the discretion of the Postmaster General, be deemed proper.

(29) The Postmaster General shall in all cases decide upon what trains and in what manner the mails shall be conveyed. Every railroad company carrying the mails shall carry on any train it operates and with due speed all mailable matter, equipment, and supplies directed to be carried thereon. If any such railroad company shall fail or refuse to transport the mails, equipment, and supplies when required by the Postmaster General on any train or trains it operates, such company shall be fined such reasonable amount as may, in the discretion of the Postmaster General, be deemed proper.

(30) The Postmaster General may make deductions from the pay of railroad companies carrying the mails under the provisions of this Act for reduction in service or in frequency of service where, in his judgment, the importance of the facilities withdrawn or reduced requires it, and impose fines upon them for delinquencies. He may deduct the price of the value of the service in cases where it is not performed, and not exceeding three times its value if the failure be occasioned by the fault of the railroad company.

Comment:

Paragraphs 28, 29 and 30 would place discretionary punitive power in the hands of the Postmaster General, limited only by the use of the word "reasonable," the meaning of which is subject to individual interpretation, and by the use in paragraph 30 of the words, "price of the value of the service" and "not exceeding three times its value." The "value" of a service is not a mathematically ascertainable quantity, but a matter of personal judgment.

Irregularities in the performance of scheduled mail service are infrequent, and in nearly all cases due to causes beyond the control of the railroad companies, and are rarely due to willful neglect or culpable negligence on the part of their employes. It is therefore the contention of the railroad managers that the punitive power of the Postmaster General, in the case of failures to perform such service, should be limited to fines or deductions equal to the revenue which would have been earned.

Moon Bill Text,
Continued

(31) The provisions of this section shall apply to service operated by railroad companies partly by railroad and partly by steamboats.

Comment:

Mail service by steamboats is of an entirely different character from service by railroads, and should be dealt with separately. It is not easy to see how payment *by the car-mile*, which is what the Moon bill, up to this point, proposes, could be applied to transportation in vessels.

Moon Bill Text,
Continued

(32) The provisions of this section respecting the rates of compensation shall not apply to mails conveyed under special arrangement in freight trains, for which rates not exceeding the usual and just freight rates may be paid, in accordance with the classifications and tariffs approved by the Interstate Commerce Commission.

Comment:

This paragraph contains the first of the four specific authorizations to the Postmaster General to nullify all the preceding portions of the measure as to at least 90 per cent. of the mail, and to devise and put into effect entirely different schemes of mail transportation and of payment for the same.

It may be noted that the language of this paragraph does not specify that the Postmaster General *shall* pay the usual and just freight rates, but that he "*may*" pay "*not exceeding*" those rates.

Moon Bill Text,
Continued

(33) Railroad companies carrying the mails shall submit, under oath, when, and in such form as may be required by the Postmaster General, evidence as to the performance of service.

(34) The Postmaster General is authorized to employ such clerical and other assistance as shall be necessary to carry out the provisions of this section, and to rent quarters in Washington, D. C., if necessary, for the clerical force engaged thereon, and to pay for the same out of the appropriation for inland transportation by railroad routes, and hereafter detailed estimates shall be submitted for such services in the annual Book of Estimates.

(35) The Postmaster General shall, from time to time, request information from the Interstate Commerce Commission as to the revenue received by railroad companies from express companies for services rendered in the transportation of express matter, and may, in his discretion, arrange for the

transportation of mail matter other than of the first class at rates not exceeding those so ascertained and reported to him, and it shall be the duty of the railroad companies to carry such mail matter at such rates fixed by the Postmaster General.

Comment:

As the mail and express services performed by the railroads are in marked degree dissimilar in nature, and were decided so to be by the Joint Congressional Committee on Railway Mail Pay, the rates received by the railroads for the one service form no proper criterion in framing rates for the other. Paragraph 35 does not indicate whether the ton-mile or the car-mile earnings would be the basis of comparison, yet the Moon bill would make the *car-mile* the basis of mail pay, while the express receipts of the railroads are based on the *ton-mile.* But whichever basis were chosen, it would be found that in some cases mail, and in other cases the express transportation, yields the railroads the higher *gross* return. The *net* return from express would be higher in nearly all cases, as the service is materially cheaper for the railroads to perform.

However, the paragraph, as it is drawn, would permit the Postmaster General to discriminate, and to adopt the express standard of gross compensation, where that was the lower, and adhere to the mail pay rates in the cases where they were lower. In justice, if it should be thought that the gross return to the railroads from express business is a correct guide for mail pay, then the Postmaster General should be required to adopt the structure of express rates *in its entirety* or not at all.

Moreover, as the words "not exceeding" again appear, the Postmaster General would not be obliged actually to follow the express rates, but could pay *as much less* as he might choose.

The paragraph is nothing more nor less than a second, and very broad, authorization to the Postmaster General to devise and apply a system of transportation, and plan of payment, wholly different from that created in detail by the main body of the bill.

Moon Bill Text,
Continued

(36) **The Postmaster General is authorized, in his discretion, to petition the Interstate Commerce Commission for the determination of a postal carload or less-than-carload rate for transportation of mail matter of the fourth class and periodicals, and may provide for and authorize such transportation, when practicable, at such rates, and it shall be the duty of the railroad companies to provide and perform such service at such rates and on the conditions prescribed by the Postmaster General.**

Comment:

This paragraph, applying to about 75 or 80 per cent. of the mail tonnage, contains the third authorization under which the Postmaster General could put into effect systems of mail transportation and payment for the service, devised by himself.

The fourth-class mail being the parcel post, this paragraph apparently contemplates its further extension in the direction of a general freight service, which the railroads would be compelled to render in competition with their own business.

The inclusion of periodicals apparently contemplates the extension of the practice of providing an inferior service for the transportation of such mail.

The paragraph leaves the determination of rates to the Interstate Commerce Commission, this being the only instance in the bill in which rates are not to be left optional with the Postmaster General. This, however, is practically neutralized by the provision allowing the Postmaster General to determine the *conditions* of the service, since rates adequate under certain conditions might be wholly inadequate under others.

Moon Bill Text,
Continued

(37) **The Postmaster General may, in his discretion, distinguish between the several classes of mail matter and provide for less frequent dispatches of mail matter of the third and fourth classes and periodicals, when lower rates for transportation or other economies may be secured thereby without material detriment to the service.**

Comment:

This paragraph contains the fourth authorization to the Postmaster General to institute other schemes of mail transportation than that created by the main body of the bill. It also specifies a definite means whereby the practice of providing slower transportation service for periodicals might be extended by reducing such mail practically to the status of merchandise freight.

* * * *

The authority granted under paragraphs 32, 35, 36 and 37 would permit the Postmaster General to nullify completely the "space plan" of transportation and payment, which purports to be the chief feature of the Moon bill, save as to the letter mail, or less than 10 per cent. of the whole.

Moon Bill Text,
Continued

(38) **The Postmaster General is authorized to return to the mails, when practicable for the utilization of car space paid for and not needed for the mails, postal cards, stamped envelopes, newspaper wrappers, empty mail bags, furniture, equipment, and other supplies for the Postal Service.**

(39) **The Postmaster General, in cases of emergency between October 1 and April 1 of any year, may hereafter return to the mails empty mail bags and other equipment theretofore withdrawn therefrom as required by law, and where such return requires additional authorization of car space under the provisions of this section to pay for the transportation thereof as provided for herein out of the appropriation for inland transportation by railroad routes.**

(40) **The Postmaster General may have the weights of mail taken on railroad mail routes and computations of the average loads of the several classes of cars and other computations for statistical and administrative purposes made at such times as he may elect, and pay the expense thereof out of the appropriation for inland transportation by railroad routes.**

(41) **It shall be unlawful for any railroad company to refuse to perform mail service at the rates of compensation provided**

by law when and for the period required by the Postmaster General so to do, and for every such offense it shall be fined not exceeding $5000.

Comment:

Paragraph 41 makes the service of carrying the mails compulsory, with an extreme penalty for refusal.

For more than 80 years the railroads have carried the mails without specific statutory requirement. They are doing so today, despite many inequitable conditions which have arisen. The economic and social requirements of the nation necessitate that the mails shall be carried by the railroads, as no other general means exist for the performance of this service.

The importance of this severe penal provision of the Moon bill does not lie in any possible strengthening of the assurance that the mails will continue to be carried upon the railroads.

Where its importance does lie is in the fact that it would specifically compel the railroads to submit to whatever rates or conditions of service the Postmaster General might impose under the broad delegations of legislative power which other sections of the Moon bill would confer upon him.

The phrase in this paragraph, "at the rates of compensation provided by law," would mean simply *the rates fixed by the Postmaster General,* because, if the Moon bill became law, the rate-making power (within the specified maximum limitations) would be vested in the Postmaster General.

* * * *

It has been claimed that the Moon bill merely follows the wording of the present law in using the words "not exceeding" in connection with rates. But there is this most important distinction, that the present law does not make it legally obligatory upon the railroads to accept whatever rates and conditions the Postmaster General might offer. The Moon bill would carry this compulsion and remove a protection which has been of especial value to small railroads.

Moon Bill Text,
Continued

(42) That the appropriations for inland transportation by railroad routes and for railway post office car service for the fiscal year ending June 30, 1916, are hereby made available for the purposes of this section.

(43) That after the rates specified in this Act shall have been in effect for a period of one year, the Interstate Commerce Commission shall, whenever requested by the Postmaster General or by the representatives of railroads with an aggregate mileage of at least 51 per cent. of the mileage of railroads carrying mail, make an investigation of the justice and reasonableness of rates then in effect, grant hearings to parties in interest, and report to Congress at the earliest practicable date thereafter the results of such investigation, making specific findings as to whether the rates fixed herein should be increased or decreased and, if either, how much: Provided, further, That such investigations thereafter shall not be made more frequently than biennially. Such report shall show for each steam railroad operating company, if practicable, the amount of mail service rendered, the cost of performing same, and a comparison of the earnings of such railroad company from mail traffic with those from express traffic and other passenger-train traffic. For the purposes of such investigations the Interstate Commerce Commission shall have all powers which it is now authorized to exercise in the investigation of the reasonableness of rates, and the Postmaster General shall supply such information regarding the mail service as may be requested by the Interstate Commerce Commission: Provided further, That the Postmaster General may, in his discretion, make independent investigations and reports.

Comment:

This final paragraph, No. 43, was not in the original Moon bill or rider, but was added, as a compromise, on the night of March 3, 1915, by the Senate and House conferrees, after a prolonged deadlock. *Its provision for a reference to the Interstate Commerce Commission can only be construed as a confession that the Postmaster General is not the proper authority to be vested with the power of dictating what the railroads shall be paid for mail transportation.*

Even with this modification the Moon rider failed of passage, and with it the entire Post Office appropriation bill for 1915-16, necessitating emergency legislation in the closing hours of the session.

As to the phrase used in the first sentence of paragraph 43, "the rates specified in this Act," and the phrase underscored in the tenth and eleventh lines of the paragraph, "the rates fixed herein," the criticism may be repeated that the proposed act does not specify or fix any definite rates at all, but in every case provides that the Postmaster General may fix the rates, "*not exceeding*" various designated sums.

Attention may also be called to the confusion of meaning involved in the provision that after the *rates specified* shall have been effective a year, the Interstate Commerce Commission may investigate the *rates then in effect*. This discloses the expectation that at the end of a year the rates then in effect would be lower than those tentatively named in the bill.

* * * *

The idea of leaving a way open for appeal to the Interstate Commerce Commission by either side, after a trial of the new legislation, was adopted from the bill recommended by the Joint Congressional Committee on Railway Mail Pay in its report of August 31, 1914. The Joint Committee bill, however, would have allowed such an appeal if requested by 25 per cent. of the railroad mileage. When the provision was incorporated into the Moon rider, the requirement was made 51 per cent.

It may also be observed that no provision whatever is made by which a railroad could appeal from any specific order or decision of the Postmaster General, notwithstanding the vast discretionary powers and compulsory authority that would be placed in his hands. Recourse to the Interstate Commerce Commission could only be had by concerted action of the railroads and then only in regard to conditions of a general character.

Moreover, the Moon rider, after vesting the Interstate Commerce Commission with the authority and duty of in-

vestigating and determining the reasonableness of railway mail pay rates, complicates and greatly weakens the provision by the further grant of power to the Postmaster General, in his discretion, to "make independent investigations and reports."

In regard to this entire paragraph of the Moon rider it seems pertinent to remark that if the Interstate Commerce Commission is to be regarded by Congress as the proper authority to decide the adequacy of railway mail pay rates, matters might be greatly simplified by vesting the Commission with plenary powers to consider and settle the whole problem.

MSH 20769

END OF
TITLE